

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CV-22538-RKA

PIERCE ROBERTSON, *et al.*,

Miami, Florida

Plaintiff(s),

February 7, 2023

VS.

MARK CUBAN, et al.,

Defendant (s) .

Pages 1 - 9

DISCOVERY HEARING
TRANSCRIBED FROM DIGITAL AUDIO RECORDING
BEFORE THE HONORABLE LISETTE M. REID
UNITED STATES MAGISTRATE JUDGE

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1 Thereupon,

2 the following proceedings were held via Zoom videoconference:

3 THE COURT: Good afternoon, everyone. So this is a
4 discovery dispute regarding a request from the defendants to
5 extend the current deadline to exchange expert witness reports.

6 I want to start out by saying it seems to me to be a
7 reasonable request. I have set it so that we can get it
8 resolved as quickly as possible.

9 So I'd like to hear from the plaintiffs as to whether
10 they have any objection and what their concerns are.

11 MS. MOSKOWITZ: Thank you, your Honor. First, it is a
12 pleasure having Paul Huck in our case. I was working with his
13 dad for many years in a firm and it is always wonderful to have
14 Paul join.

15 We don't have any objection to moving the date. The
16 only question I had for Paul was why do you need three months,
17 because the scheduling order says that you are to file your
18 expert report one month after the amended complaint. So that
19 would be March.

20 Then in the letter Paul raises a few things that I
21 don't think are within our control. He said something about
22 they're not getting documents and they're having a hard time
23 getting them from voyager. He said they filed a motion to
24 transfer this case to Texas and that there may be a bankruptcy
25 hearing that may have some effect on our case.

1 I just want us to move quickly. If it is a month or
2 two months, we certainly have no objection at all. I just
3 couldn't figure out why three months was needed. We have
4 already given them our expert report.

5 THE COURT: OK. I will hear from Mr. Paul Huck, Jr.
6 How are you?

7 MR. HUCK: Good afternoon, your Honor. I'm doing
8 well. How are you doing?

9 THE COURT: Very good.

10 MR. HUCK: A couple of things. The number one reason
11 that we have asked to move these dates is something that is in
12 the plaintiffs' control. It looks like they are filing a
13 second amended complaint. That raises all those issues that we
14 outlined in our letter, your Honor, about why it makes sense to
15 move this.

16 We believe May 31st gives our experts time to not only
17 digest whatever is in that new complaint, but, as we raise in
18 our letter to your Honor, it is taking more time and effort to
19 get information from Voyager precisely because it is in
20 bankruptcy and it is in the middle of trying to conduct a
21 billion dollar sales process. So that is taking up the time
22 and more limited resources of Voyager, and it is obviously
23 taking the attention of the bankruptcy court, as it should be.

24 As a result, we think May 31st makes sense. It is a
25 reasonable request to extend it. We are not asking to extend

1 the rest of the discovery deadlines or the other pretrial
2 deadlines.

3 THE COURT: OK. So if we extend the expert reports,
4 that gives you time to see that amended complaint, to determine
5 if there is more expert discovery that needs to be done and
6 then to have the experts prepare that report.

7 MR. HUCK: That's correct, your Honor.

8 THE COURT: It seems very reasonable to me.

9 The trial itself is not set until February of 2024.

10 When is the motion, summary judgment deadline,
11 pretrial motions? That is November 8?

12 MR. HUCK: That is correct, your Honor.

13 THE COURT: It would seem to me to give the parties
14 sufficient time to still prepare their final motions, their
15 pretrial motions, and Daubert motions well in advance of trial.
16 So I am, again, inclined to grant.

17 MR. HUCK: Thank you, your Honor. We appreciate that.

18 MS. MOSKOWITZ: Judge, we don't have any strong
19 objection. As I said from the beginning, if your Honor feels
20 three months and if Paul believes he really needs three months,
21 that is fine with us. We just wanted to understand what the
22 reasoning was and have a set deadline.

23 THE COURT: OK. Can I just say that there was a
24 requirement to meet and confer. Did the parties meet and
25 confer before today's hearing on this issue?

1 MS. MOSKOWITZ: We got an email.

2 MR. HUCK: Mr. Moskowitz and I have exchanged fairly
3 detailed emails about this, your Honor.

4 THE COURT: OK. So I'm glad -- first of all, I am not
5 objecting to the fact that you're agreeing with each other and
6 there is no strenuous objection here. That's wonderful. I
7 just want to say in the future, if you can, make sure that you
8 meet and confer, and that generally requires telephonic. You
9 can pick up the phone and talk to each other and get it
10 resolved. That is even better.

11 Thank you, both parties, for being very professional
12 and easily resolving this issue, and I can easily issue an
13 order and get that out by tomorrow changing these deadlines.

14 MR. HUCK: Great.

15 MS. MOSKOWITZ: Your Honor, we have one other issue
16 that we raised with Mr. Huck. We would like to just sort of
17 give you a brief update too, kind of a status of what is going
18 on in the case, because a lot has been going on, if that is OK.

19 THE COURT: I don't mind hearing that, but I will tell
20 you this. If there are issues, it's always better for you to
21 meet and confer. I don't want us to spring any issues today on
22 the defendants that have not been discussed ahead of time.

23 MS. MOSKOWITZ: I think they have.

24 MR. HUCK: I would suggest, your Honor, as I had
25 mentioned to Mr. Moskowitz, we're happy to discuss any issues

1 he wants to raise. We have issues to raise. I think it's
2 best, since they're fairly broad and raise a number of issues,
3 that we get together, meet and confer, and then if there is
4 anything in particular -- and I suspect we don't have to agree
5 on everything -- then we bring it back to your Honor for a
6 hearing that is set just for that.

7 THE COURT: I think that is a great idea so that you
8 have a chance to -- I think you are fairly new to the case too,
9 Mr. Huck.

10 MR. HUCK: I am.

11 THE COURT: So you would need to have that time to
12 discuss everything with Mr. Moskowitz.

13 MS. MOSKOWITZ: Is it OK to give you an update, Judge?
14 That is all we were going to do. We are just going to tell
15 you -- because some things were pending. It has nothing to do
16 with the defendants. It is on Mr. Ehrlich, issues that we have
17 discussed but were raised in other courts.

18 So Mr. Boies was just going to give you a 20-second
19 update of what has been going on in other courts related to our
20 litigation. That's all.

21 THE COURT: I see. OK.

22 MR. BOIES: If your Honor would like, I can be very
23 brief.

24 We served a subpoena, as I think the court knows, on
25 Mr. Ehrlich. He moved to quash that in the district of

1 Connecticut. We asked to have it transferred here. The
2 district of Connecticut declined to transfer it but did not
3 quash the subpoena. And the deposition is going ahead on
4 February 21st.

5 THE COURT: Very good. Today is the 7th. OK.

6 MS. MOSKOWITZ: And we took Mr. Cuban's deposition.
7 It was all cooperative and cordial and it went great last week,
8 and the plaintiffs' depositions were all taken, and we have two
9 Dallas depositions next week. So everything is going
10 cooperatively.

11 THE COURT: That is good to hear.

12 MS. MOSKOWITZ: That was my update. It was all
13 positive.

14 THE COURT: That is excellent. I am glad to hear it.
15 I'm hoping that everything else will go smoothly.

16 MS. MOSKOWITZ: Thank you.

17 MR. BOIES: Thank you, your Honor.

18 MR. HUCK: Thank you, your Honor.

19 THE COURT: Have a great afternoon. Take care.

20 (Adjourned)

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C E R T I F I C A T E

I hereby certify that the foregoing is an accurate transcription to the best of my ability of the digital audio recording in the above-entitled matter.

February 8, 2023

s/ Joanne Mancari
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MR. BOIES: [2] 7/22 8/17
 MR. HUCK: [10]
 MS. MOSKOWITZ: [9] 3/11 5/18 6/1
 6/15 6/23 7/13 8/6 8/12 8/16
 THE COURT: [16]

1

10504 [1] 1/19
 1423 [1] 1/15

2

20-second [1] 7/18
 2023 [2] 1/5 9/7
 2024 [1] 5/9
 21st [1] 8/4
 22-CV-22538-RKA [1] 1/2
 2299 [1] 2/5

3

305 [2] 1/15 2/5
 31st [2] 4/16 4/24
 33134 [2] 1/14 2/5
 333 [1] 1/18
 334 [1] 2/4

4

441-2299 [1] 2/5

7

740-1423 [1] 1/15
 749-8200 [1] 1/19
 7th [1] 8/5

8

8200 [1] 1/19

9

914 [1] 1/19

A

ability [1] 9/4
 about [3] 3/21 4/14 6/3
 above [1] 9/5
 above-entitled [1] 9/5
 accurate [1] 9/3
 adam [2] 1/13 1/15
 Adjourned [1] 8/20
 advance [1] 5/15
 after [1] 3/18
 afternoon [3] 3/3 4/7 8/19
 again [1] 5/16
 agree [1] 7/4
 agreeing [1] 6/5
 ahead [2] 6/22 8/3
 al [2] 1/3 1/6
 Alhambra [1] 1/14
 all [8] 4/2 4/13 6/4 7/14 7/20 8/7 8/8 8/12
 already [1] 4/4
 always [2] 3/13 6/20
 am [4] 5/16 6/4 7/10 8/14
 amended [3] 3/18 4/13 5/4
 any [5] 3/10 3/15 5/18 6/21 6/25
 anything [1] 7/4
 APPEARANCES [2] 1/11 1/21
 appreciate [1] 5/17
 are [10]
 Armonk [1] 1/19
 as [9] 3/8 3/8 3/9 4/17 4/23 4/24 5/19
 6/24 7/24

asked [2] 4/11 8/1
 asking [1] 4/23
 at [1] 4/2
 attention [1] 4/23
 audio [2] 1/9 9/4
 Avenue [1] 2/4

B

back [1] 7/5
 bankruptcy [3] 3/24 4/20 4/23
 be [6] 3/6 3/19 3/24 4/23 5/5 7/22
 because [4] 3/17 4/19 6/18 7/15
 been [3] 6/18 6/22 7/19
 before [2] 1/10 5/25
 beginning [1] 5/19
 being [1] 6/11
 believe [1] 4/16
 believes [1] 5/20
 best [2] 7/2 9/4
 better [2] 6/10 6/20
 billion [1] 4/21
 BOIES [3] 1/17 1/18 7/18
 both [1] 6/11
 brief [2] 6/17 7/23
 bring [1] 7/5
 broad [1] 7/2
 bsflp.com [1] 1/20
 but [4] 4/17 6/19 7/17 8/2

C

can [6] 3/7 5/23 6/7 6/9 6/12 7/22
 care [1] 8/19
 case [6] 1/2 3/12 3/24 3/25 6/18 7/8
 certainly [1] 4/2
 certify [1] 9/3
 chance [1] 7/8
 changing [1] 6/13
 complaint [4] 3/18 4/13 4/17 5/4
 concerns [1] 3/10
 conduct [1] 4/20
 confer [5] 5/24 5/25 6/8 6/21 7/3
 Connecticut [2] 8/1 8/2
 CONT'D [1] 2/1
 control [2] 3/21 4/12
 cooperative [1] 8/7
 cooperatively [1] 8/10
 Coral [2] 1/14 2/5
 cordial [1] 8/7
 correct [2] 5/7 5/12
 couldn't [1] 4/3
 couple [1] 4/10
 court [5] 1/1 2/9 4/23 7/24 9/8
 courts [2] 7/17 7/19
 CRR [2] 2/9 9/7
 CSR [2] 2/9 9/7
 CUBAN [1] 1/6
 Cuban's [1] 8/6
 current [1] 3/5
 CV [1] 1/2

D

dad [1] 3/13
 Dallas [1] 8/9
 date [1] 3/15
 dates [1] 4/11
 Daubert [1] 5/15
 DAVID [1] 1/17
 dboies [1] 1/20
 deadline [3] 3/5 5/10 5/22
 deadlines [3] 5/1 5/2 6/13

declined [1] 8/2
 Defendant [2] 1/1 2/3
 defendants [3] 3/4 6/22 7/16
 deposition [2] 8/3 8/6
 depositions [2] 8/8 8/9
 detailed [1] 6/3
 determine [1] 5/4
 did [2] 5/24 8/2
 digest [1] 4/17
 digital [2] 1/9 9/4
 discovery [4] 1/9 3/4 5/1 5/5
 discuss [2] 6/25 7/12
 discussed [2] 6/22 7/17
 dispute [1] 3/4
 district [4] 1/1 1/1 7/25 8/2
 do [3] 3/16 7/14 7/15
 documents [1] 3/22
 doing [2] 4/7 4/8
 dollar [1] 4/21
 don't [6] 3/15 3/21 5/18 6/19 6/21 7/4
 done [1] 5/5

E

each [2] 6/5 6/9
 easily [2] 6/12 6/12
 effect [1] 3/25
 effort [1] 4/18
 Ehrlich [2] 7/16 7/25
 else [1] 8/15
 email [1] 6/1
 emails [1] 6/3
 entitled [1] 9/5
 ESQ [3] 1/13 1/17 2/3
 et [2] 1/3 1/6
 even [1] 6/10
 everyone [1] 3/3
 everything [4] 7/5 7/12 8/9 8/15
 excellent [1] 8/14
 exchange [1] 3/5
 exchanged [1] 6/2
 expert [5] 3/5 3/18 4/4 5/3 5/5
 experts [2] 4/16 5/6
 extend [4] 3/5 4/25 4/25 5/3

F

fact [1] 6/5
 fairly [3] 6/2 7/2 7/8
 February [4] 1/5 5/9 8/4 9/7
 feels [1] 5/19
 few [1] 3/20
 figure [1] 4/3
 file [1] 3/17
 filed [1] 3/23
 filing [1] 4/12
 final [1] 5/14
 fine [1] 5/21
 firm [3] 1/13 2/4 3/13
 first [2] 3/11 6/4
 FL [2] 1/14 2/5
 FLEXNER [1] 1/18
 FLORIDA [2] 1/1 1/4
 following [1] 3/2
 foregoing [1] 9/3
 future [1] 6/7

G

Gables [2] 1/14 2/5
 generally [1] 6/8
 get [5] 3/7 4/19 6/9 6/13 7/3
 getting [2] 3/22 3/23

G give [4] 5/13 6/17 7/13 7/18

given [1] 4/4

gives [2] 4/16 5/4

glad [2] 6/4 8/14

gmail.com [2] 2/10 9/8

go [1] 8/15

going [8] 6/17 6/18 7/14 7/14 7/18 7/19

8/3 8/9

good [5] 3/3 4/7 4/9 8/5 8/11

got [1] 6/1

grant [1] 5/16

great [4] 6/14 7/7 8/7 8/19

H

had [2] 3/16 6/24

happy [1] 6/25

hard [1] 3/22

has [3] 6/18 7/15 7/19

have [23]

having [2] 3/12 3/22

he [5] 3/21 3/23 5/20 7/1 7/25

hear [4] 3/9 4/5 8/11 8/14

hearing [5] 1/9 3/25 5/25 6/19 7/6

held [1] 3/2

here [2] 6/6 8/1

hereby [1] 9/3

his [1] 3/12

Honor [15]

HONORABLE [1] 1/10

hoping [1] 8/15

How [2] 4/6 4/8

HUCK [6] 2/3 2/4 3/12 4/5 6/16 7/9

I

I'd [1] 3/9

I'm [3] 4/7 6/4 8/15

idea [1] 7/7

if [10]

in [17]

inclined [1] 5/16

information [1] 4/19

is [35]

issue [4] 5/25 6/12 6/12 6/15

issues [7] 4/13 6/20 6/21 6/25 7/1 7/2

7/16

it [28]

it's [2] 6/20 7/1

itself [1] 5/9

J

jemancari [2] 2/10 9/8

Joanne [3] 2/9 9/7 9/7

join [1] 3/14

JR [2] 2/3 4/5

JUDGE [3] 1/10 5/18 7/13

judgment [1] 5/10

just [9] 4/1 4/2 5/21 5/23 6/7 6/16 7/6

7/14 7/18

K

kind [1] 6/17

knows [1] 7/24

L

last [1] 8/7

LAW [2] 1/13 2/4

law.com [1] 1/15

letter [3] 3/20 4/14 4/18

like [4] 3/9 4/12 6/16 7/22

limited [1] 4/22

LISETTE [1] 1/10

litigation [1] 7/20

looks [1] 4/12

lot [1] 6/18

M

MAGISTRATE [1] 1/10

Main [1] 1/18

make [1] 6/7

makes [2] 4/14 4/24

Mancari [3] 2/9 9/7 9/7

many [1] 3/13

March [1] 3/19

MARK [1] 1/6

matter [1] 9/5

may [4] 3/24 3/25 4/16 4/24

me [3] 3/6 5/8 5/13

meet [5] 5/24 5/24 6/8 6/21 7/3

mentioned [1] 6/25

Miami [1] 1/4

middle [1] 4/20

mind [1] 6/19

Minorca [1] 2/4

month [2] 3/18 4/1

months [5] 3/16 4/2 4/3 5/20 5/20

more [3] 4/18 4/22 5/5

moskowitz [6] 1/13 1/13 1/15 6/2 6/25

7/12

moskowitz-law.com [1] 1/15

motion [2] 3/23 5/10

motions [4] 5/11 5/14 5/15 5/15

move [3] 4/1 4/11 4/15

moved [1] 7/25

moving [1] 3/15

Mr [2] 7/16 7/25

Mr. [8] 4/5 6/2 6/16 6/25 7/9 7/12 7/18

8/6

Mr. Boies [1] 7/18

Mr. Cuban's [1] 8/6

Mr. Huck [2] 6/16 7/9

Mr. Moskowitz [3] 6/2 6/25 7/12

Mr. Paul [1] 4/5

my [2] 8/12 9/4

N

need [2] 3/16 7/11

needed [1] 4/3

needs [2] 5/5 5/20

new [2] 4/17 7/8

next [1] 8/9

no [3] 1/2 4/2 6/6

not [7] 3/22 4/16 4/25 5/9 6/4 6/22 8/2

nothing [1] 7/15

November [1] 5/11

number [2] 4/10 7/2

NY [1] 1/19

O

objecting [1] 6/5

objection [5] 3/10 3/15 4/2 5/19 6/6

obviously [1] 4/22

OK [8] 4/5 5/3 5/23 6/4 6/18 7/13 7/21

8/5

on [10]

one [3] 3/18 4/10 6/15

only [2] 3/16 4/16

or [2] 4/1 5/1

order [2] 3/17 6/13

other [6] 5/1 6/5 6/9 6/15 7/17 7/19

our [8] 3/12 3/21 3/25 4/4 4/14 4/16 4/18

7/19

out [3] 3/6 4/3 6/13

outlined [1] 4/14

P

P.A [1] 2/4

Pages [1] 1/7

particular [1] 7/4

parties [3] 5/13 5/24 6/11

paul [8] 2/3 2/6 3/12 3/14 3/16 3/20 4/5

5/20

pending [1] 7/15

phone [1] 6/9

pick [1] 6/9

PIERCE [1] 1/3

Plaintiff [3] 1/4 1/13 1/17

plaintiffs [1] 3/9

plaintiffs' [2] 4/12 8/8

Plaza [1] 1/14

pleasure [1] 3/12

PLLC [1] 1/13

positive [1] 8/13

possible [1] 3/8

precisely [1] 4/19

prepare [2] 5/6 5/14

pretrial [3] 5/1 5/11 5/15

proceedings [1] 3/2

process [1] 4/21

professional [1] 6/11

Q

quash [2] 7/25 8/3

question [1] 3/16

quickly [2] 3/8 4/1

R

raise [4] 4/17 7/1 7/1 7/2

raised [2] 6/16 7/17

raises [2] 3/20 4/13

really [1] 5/20

reason [1] 4/10

reasonable [3] 3/7 4/25 5/8

reasoning [1] 5/22

recording [2] 1/9 9/5

regarding [1] 3/4

REID [1] 1/10

related [1] 7/19

report [3] 3/18 4/4 5/6

Reporter [2] 2/9 9/8

reports [2] 3/5 5/3

request [3] 3/4 3/7 4/25

requirement [1] 5/24

requires [1] 6/8

resolved [2] 3/8 6/10

resolving [1] 6/12

resources [1] 4/22

rest [1] 5/1

result [1] 4/24

RKA [1] 1/2

ROBERTSON [1] 1/3

RPR [2] 2/9 9/7

S

said [3] 3/21 3/23 5/19

sales [1] 4/21

say [2] 5/23 6/7

saying [1] 3/6

says [1] 3/17

scheduling [1] 3/17

S
 SCHILLER [1] 1/18
 second [2] 4/13 7/18
 see [2] 5/4 7/21
 seem [1] 5/13
 seems [2] 3/6 5/8
 sense [2] 4/14 4/24
 served [1] 7/24
 set [4] 3/7 5/9 5/22 7/6
 should [1] 4/23
 since [1] 7/2
 smoothly [1] 8/15
 so [12]
 some [2] 3/25 7/15
 something [2] 3/21 4/11
 sort [1] 6/16
 SOUTHERN [1] 1/1
 spring [1] 6/21
 start [1] 3/6
 STATES [2] 1/1 1/10
 status [1] 6/17
 still [1] 5/14
 Street [1] 1/18
 strenuous [1] 6/6
 strong [1] 5/18
 subpoena [2] 7/24 8/3
 sufficient [1] 5/14
 suggest [1] 6/24
 summary [1] 5/10
 sure [1] 6/7
 suspect [1] 7/4

trying [1] 4/20
 two [2] 4/2 8/6

U
 understand [1] 5/21
 UNITED [2] 1/1 1/10
 until [1] 5/9
 up [2] 4/21 6/9
 update [4] 6/17 7/13 7/19 8/12
 us [3] 4/1 5/21 6/21

V
 very [5] 4/9 5/8 6/11 7/22 8/5
 via [1] 3/2
 videoconference [1] 3/2
 voyager [3] 3/23 4/19 4/22

W
 want [4] 3/6 4/1 6/7 6/21
 wanted [1] 5/21
 wants [1] 7/1
 was [9] 3/12 3/16 4/3 5/22 5/23 7/18 8/7
 8/12 8/12
 we [29]
 we're [1] 6/25
 week [2] 8/7 8/9
 well [2] 4/8 5/15
 went [1] 8/7
 were [5] 3/2 7/14 7/15 7/17 8/8
 what [4] 3/10 5/21 6/17 7/19
 whatever [1] 4/17
 When [1] 5/10
 whether [1] 3/9
 why [3] 3/16 4/3 4/14
 will [3] 4/5 6/19 8/15
 within [1] 3/21
 witness [1] 3/5
 wonderful [2] 3/13 6/6
 working [1] 3/12
 would [6] 3/19 5/13 6/16 6/24 7/11 7/22

Y
 years [1] 3/13
 you [23]
 you're [1] 6/5
 your [16]

Z
 Zoom [1] 3/2

T
 Take [1] 8/19
 taken [1] 8/8
 taking [3] 4/18 4/21 4/23
 talk [1] 6/9
 telephonic [1] 6/8
 tell [2] 6/19 7/14
 Texas [1] 3/24
 Thank [6] 3/11 5/17 6/11 8/16 8/17 8/18
 that [44]
 That's [3] 5/7 6/6 7/20
 thehucklawfirm.com [1] 2/6
 their [3] 3/10 5/14 5/14
 them [2] 3/23 4/4
 then [4] 3/20 5/6 7/3 7/5
 there [6] 3/24 5/5 5/23 6/6 6/20 7/3
 Thereupon [1] 2/11
 these [2] 4/11 6/13
 they [4] 3/10 3/23 4/12 6/23
 they're [3] 3/22 3/22 7/2
 things [3] 3/20 4/10 7/15
 think [7] 3/21 4/24 6/23 7/1 7/7 7/8 7/24
 this [7] 3/3 3/24 4/15 5/25 6/3 6/12 6/20
 those [1] 4/13
 three [4] 3/16 4/3 5/20 5/20
 time [8] 3/22 4/16 4/18 4/21 5/4 5/14
 6/22 7/11
 today [2] 6/21 8/5
 today's [1] 5/25
 together [1] 7/3
 tomorrow [1] 6/13
 too [2] 6/17 7/8
 took [1] 8/6
 TRANSCRIBED [2] 1/9 2/9
 transcription [1] 9/4
 transfer [2] 3/24 8/2
 transferred [1] 8/1
 trial [2] 5/9 5/15